

FILE:

DATE: NOV 27 1974

B-132040
MATTER OF:

Gayden G. McMains--Restoration of annual leave

DIGEST:

Where employee chose to use annual leave in place of sick leave during illnesses, there is no basis for restoring that leave to him under P.L. 93-181 since that law was intended to cover situations wherein employees had scheduled annual leave in advance and sudden illness prevented its use. In this case employee purposely chose to use annual leave rather than sick leave. Further, provisions of P.L. 93-181 relating to loss of leave due to illness were only effective as of date of enactment, December 14, 1973, and employee's use of annual leave was prior to that date.

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE:

DATE: NOV 7 1974

B-182229
MATTER OF:

Frank X. Kuhn - Annual leave restoration -
Administrative error

DIGEST:

Although GAO has been given no special authority to make determinations of error under 5 U.S.C. 6304, no objection appears to an agency determination to restore annual leave forfeited because of maximum accumulation provision where leave accounts were adjusted to provide leave credit at the direction of the Civil Service Commission for a prior period of service for which the agency had not considered the employee subject to the annual and sick leave provisions.

The Architect of the Capitol asks whether he may restore annual leave lost through forfeiture in reconstructing the annual leave account for Mr. Frank X. Kuhn under the following circumstances.

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The pertinent facts as presented by Mr. Kuhn was employed on a daily basis under personal service contracts from January 1972 to June 1974 which service the Civil Service Commission determined